

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
CHAMORRO, et al., : Docket #12cv8159
: 1:12-CV-08159-TPG
Plaintiffs, :
- against - : New York, New York
: March 17, 2014
GHERMEZIAN, et al., :
Defendants. :
----- :

PROCEEDINGS BEFORE
THE HONORABLE HENRY PITMAN,
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

APPEARANCES:

For Plaintiffs: GETMAN SWEENEY
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<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Re- Direct</u>	<u>Re- Cross</u>
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None

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
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None

THE CLERK: Chamorro against Ghermezian, counsel,
please state your name for the record.

MR. DAN GETMAN: Dan Getman, with Getman Sweeney,
for the plaintiffs.

MR. ARTEMIO GUERRA: Artemio Guerra with Getman
Sweeney for the plaintiffs.

MS. LAURA HUIZAR: Laura Huizar for Latinojustice
Prldef for the plaintiffs.

MS. FELICE EKELMAN: Felice Ekelman, Jackson
Lewis, for the defendants.

MS. TARA TOULOUMIS: Tara Touloumis, Jackson
Lewis, for the defendants.

HONORABLE HENRY PITMAN (THE COURT): Okay. All
right, good afternoon, counsel, we have just completed and
off the record settlement conference during which the
parties have come to an agreement to resolve the case.
There are certain monetary and nonmonetary terms. My --
the settlement, the terms of the settlement are as follows:
The defendants will pay to the plaintiff the total sum of
\$180,000 in full and final satisfaction of all claims in
the case, in full and final satisfaction of all claims for
attorney's fees in the case, in full and final satisfaction
of all monetary claims that plaintiffs have against the
defendants.

The parties will exchange releases, the releases will run -- the attorneys, in addition to the parties, will be released. The releases will include a release of the -- a release by the defendants of their claim for a loan in the approximate amount of \$57,000. The parties agree that they will not publicize the settlement. Plaintiffs' counsel agrees that the reference to the lawsuit on plaintiffs' counsels website will be removed promptly.

The parties agree that the attorneys are bound by the stipulation of confidentiality. If any party or attorney is asked about the outcome of the lawsuit, the party or attorney is to respond in substance that the matter has been amicably resolved.

The plaintiffs agree, well Ms. Pinguil agrees not to disclose the terms, in addition to a general agreement of confidentiality she agrees not to disclose the terms of the settlement to her sister. Ms. Chamorro agrees not to disclose the terms of the settlement to her husband except to the extent required by law. My understanding is, however, the plaintiffs can disclose the terms of the settlement to tax preparers or similar individuals who stand in a fiduciary relationship, confidential fiduciary relationship to the party. The check will be issued to Getman and Sweeney, part of it will be on a 1099, part of

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it will be on -- the part that represents payment to the plaintiffs will be issued on a W2.

I believe those are all the material terms of the settlement, but let me ask both sides if I've omitted anything or misstated anything?

MR. GETMAN: Your Honor, I have a couple of things that I'd like to clarify. One is that I am probably the only person who can remove this from the website and I won't be able to do that until tomorrow morning, so I'd like to be able to --

MS. EKELMAN: That's fine.

MR. GETMAN: Understood that that's when that would occur. Ms. Pinguil would also, as I understood the confidentiality, it was that it would only be -- it would not be disclosed to anyone who stands outside of confidential relationship. So Ms. Pinguil would be able to disclose to her husband that she received this money. She will, as well, the plaintiffs will disclose to any person that they make a disclosure to, that it's not to be further disseminated.

MS. EKELMAN: Other than her husband to whom does -- or a tax adviser, is there anyone else that Ms. Pinguil intends to disclose this to?

MR. GETMAN: Not that I know of.

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MS. EKELMAN: Can we limit it to that?

MR. GETMAN: I would typically say that people also can disclose to a confidential spiritual advisor, priest, something like that --

MS. EKELMAN: I'd rather not.

THE COURT: Why would you want to do that?

MR. GETMAN: I don't know, but people do, Your Honor.

THE COURT: They're going to call you for a contribution.

MR. GETMAN: It may be ill advised, and as their attorney I should advise them not to.

MS. EKELMAN: But you'd rather not, because I'm not sure what the connections of those people are in a community which they may overlap with other people. So her husband and tax advisor.

MR. GETMAN: Okay, I think we can live with that.

THE COURT: All right, anything else from plaintiffs' point of view?

MR. GETMAN: Yes, we'd also like, rather than the money going through the Getman Sweeney Trust Account, as I understand it will go through Latinojustice Client Trust Account.

MS. EKELMAN: Okay, so I thought we were going to

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issue different 1099 and W -- you wanted them to be paid separately, isn't that what we just discussed?

MR. GETMAN: Yes, but you, I think as -- I think can we -- can we arrange to discuss that further, but that it would, generally speaking, in accordance with the law, go through, probably go through one client trust account.

MS. EKELMAN: Okay.

THE COURT: All right, anything else from plaintiffs' side?

MR. GETMAN: Nothing from plaintiffs' side.

THE COURT: All right. Ms. Ekelman, from defendants' point of view, have --

MS. EKELMAN: Only that we be provided with the appropriate tax ID numbers from the law firms, from the justice center and from the plaintiffs so that the proper forms can be issued next year.

THE COURT: Okay. Any problem with that, providing the tax ID numbers for the payees' of the settlement proceeds?

MR. GETMAN: We'll promptly provide the ITINs.

MS. EKELMAN: Very good.

THE COURT: Okay.

MR. GETMAN: And I think I heard but I just want to make sure that there was a release, as well, of law

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firms, since there was some mention of claims thereof.

MS. EKELMAN: Yes.

THE COURT: Right, all claims against the parties and against the lawyers, if any, are released.

MR. GETMAN: Thank you.

THE COURT: All right, and both sides agree with that, correct?

MS. EKELMAN: That's fine.

THE COURT: Okay. All right. I thank the parties for their hard work, it's been a long day, but I think the settlement is really in everybody's interest and ultimately is going to save everybody time, money and aggravation. I'm going to forward the stip of dismissal to Judge Griesa's chambers and I'm also going to direct that this recording, any transcript of this recording be maintained under seal except that copies can be provided to counsel of record only. It is not to be provided to anyone other than counsel of record without a Court order. Okay, anything else from plaintiffs' side?

MR. GETMAN: No, Your Honor, just to say that I know this won't have been the biggest case that Your Honor handles, but it is a, it is a matter of importance to the parties and so I thank you for devoting a full day to settling this case.

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THE COURT: My pleasure. Every case that comes before me I know is an important case to the parties and it's an important case to society.

MR. GETMAN: Thank you.

THE COURT: So every case is important.

MS. EKELMAN: Thank you very much, Your Honor.

THE COURT: Okay, thank you all.

(Whereupon the matter is adjourned.)

C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the United States District Court, Southern District of New York, Chamorro, et al, versus Ghermezian, et al, Docket #12cv8159, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature_____

Date: April 7, 2014